IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3195 OF 2006

Khushnuma Noshir Lawyer ...Applicant

Vs.

The State of Maharashtra & Anr. ...Respondents

Shri Rahul Dhumal for the Applicant.

Shri Rajesh More, A.P.P. for the State.

CORAM : A. S. OKA, J.
DATE : AUGUST 30, 2006.

P.C.:

1. Rule. The learned A.P.P. waives service for the first Respondent. Considering the nature of relief sought in the Application, service of notice to the second Respondent is not necessary.

2. The Applicant is the original complainant who lodged F.I.R. with Byculla Police Station alleging commission of offences punishable under section 498-A, 323, 504 and 506 of the Indian Penal Code, 1908 against the second Respondent. The Applicant is the wife of the second Respondent. The marriage was solemnised on 15th February, 2002. It appears that the complaint which was filed by the Applicant was the outcome of matrimonial dispute between the Applicant and the second Respondent.

3. The Applicant also filed a Petition in this court for a decree of divorce. My attention has been invited to order dated 05th May, 2006 passed by this Court in Suit No.19 of 2006. By the said order this court accepted the consent terms filed by the Applicant and the second Respondent and passed a decree of dissolution of marriage by mutual consent under section 32-B of the Parsi Marriages and Divorce Act. The decree passed by this court provides thus:

> "AND THIS COURT BY AND WITH SUCH CONSENT DOTH RECORD AND ORDER that Plaintiff No.1 agrees and undertakes to this Hon'ble Court to withdraw all Criminal Applications filed against the Plaintiff No.2 more particularly under Section 498-A, 523, 504, and 506 of the Indian Penal Code, with the Byculla Police Station, Mumbai AND THIS COURT BY AND WITH SUCH CONSENT DOTH FURTHER RECORD AND ORDER that both the Plaintiffs agree and undertake to this Hon'ble Court not to claim any alimony and/or maintenance from the other, now or in future under any change of circumstances."

The Plaintiff No.1 is the present Applicant. The order

dated 05th May, 2006 records a complete settlement between the Applicant and the first Respondent including the issue regarding custody of minor child.

4. In view of the decree passed by this court, the continuation of prosecution will be unjust to both the Applicant and the second Respondent. This is a fit case where power of this court under section 482 of the Code of Criminal Procedure, 1973 should be exercised and the pending proceedings should be quashed as no purpose will be served by continuing the said proceedings.

5. Hence, rule is made absolute in terms of prayer clause (a). No orders as to costs.

JUDGE